

REMARKS

Upon entry of the present amendment, claims 1, 10, 18, and 25 will have been amended. In addition, claims 11, 19, 20, and 27 will have been canceled by virtue of being incorporated into the independent claims from which they depend.

Initially, Applicants would like to thank the Examiner for his indication that the drawings filed on July 29, 2003 have been accepted.

In the outstanding Official Action, the Examiner rejected claims 1, 9, 18, 21, 22, and 24 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. (U.S. Patent No. 5,661,792). The Examiner also rejected claims 2, 10, 15, 17, 19, 25, and 26 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of COCHRANE et al. (U.S. Patent No. 6,496,828). The Examiner also rejected claims 3 and 20 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of KUNG (U.S. Patent No. 5,987,452). The Examiner also rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of COCHRANE et al., further in view of KUNG. The Examiner also rejected claim 23 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of ZEBRYK (U.S. Patent No. 4,975,942). The Examiner also rejected claim 23 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of COCHRANE et al., further in view of BOUGHMAN et al. The Examiner also rejected claim 27 under 35 U.S.C. § 103(a) as being unpatentable over AKINPELU et al. in view of BOUGHMAN, further in view of ZEBRYK. Applicants respectfully traverse.

Applicants have amended claim 1 to include a recitation that the interexchange carrier uses the notification to decide whether to connect the suspended call to the called party (previously recited in claim 27), which the Examiner correctly acknowledged on page 19 of the outstanding Official Action that AKINPELU et al. fails to teach. The Examiner, however, relied upon BOUGHMAN et al. for a teaching of this feature. However, Applicants submit that the disclosure of BOUGHMAN et al. is deficient in this regard. BOUGHMAN et al. discloses that a return SS7 message is sent back to MSC 36 from the IN network element to indicate if the call is a toll call 53 or a non-toll call 52. If the call is a non-toll call 52, the call may be automatically completed. If the IN returns a message that a toll call has been made, the SS7 message is sent back to MSC 36 to alert caller 53. The caller, upon hearing the alert, may terminate call 54 or proceed with call 55 (col. 7, lines 10-14 and Fig. 2). That is, in BOUGHMAN et al., the caller decides whether to terminate or proceed with the call, not the interexchange carrier, as recited in claim 1. Thus, Applicants submit that BOUGHMAN et al. is deficient and fails to compensate for the deficiencies of AKINPELU et al.

Applicants have amended claim 10 to include a recitation that the determining [is] based on a cost associated with each of a plurality of message types and based upon a message type supported by the identified database, have amended claim 18 to include a recitation that the gateway determines the message type based upon a cost associated with each of a plurality of available message types and based upon a message type supported by the one of the plurality of databases, and have amended

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claim 25 to include a recitation that the determining [is] based upon a cost associated with each available message type and based upon a message type supported by the identified database. These features were previously recited in now cancelled claims 11, 19, and 20.

The Examiner correctly acknowledged that AKINPELU et al. fails to disclose that the determining of message type is based upon a cost associated with each of a plurality of available message types (Official Action, page 11). The Examiner, however, relied upon COCHRANE et al for a teaching of this feature. The Examiner provides no motivation or suggestion to make the claimed combination, which must be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir.). AKINPELU et al. fails to provide such a teaching or suggestion. In fact, AKINPELU et al. teaches away from a combination with COCHRANE et al. That is, AKINPELU et al. never addresses costs associated with a plurality of message types since only one message type was contemplated. Further, although COCHRANE et al. pertains to the field of databases, it does not relate to the field of telecommunications, much less to identifying local service providers. Thus, Applicants submit that the disclosure of COCHRANE et al. is lacking and fails to compensate for the deficiencies of AKINPELU et al.

The Examiner also correctly acknowledged that AKINPELU et al. fails to disclose that the determining of message type is based upon the message type supported by the identified database (Official Action, page 15). The Examiner, however, relied upon

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KUNG for a teaching of this feature. The Examiner provides no motivation or suggestion to make the claimed combination, which must be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ 2d 1438 (Fed. Cir.). AKINPELU et al. fails to provide such a teaching or suggestion. In fact, AKINPELU et al. teaches away from a combination with KUNG. That is, AKINPELU et al. never addresses the issue of message types supported by a database because only one message type was contemplated. Thus, Applicants submit that the disclosure of KUNG is lacking and fails to compensate for the deficiencies of AKINPELU et al.

Nevertheless, Applicants have amended claims 10, 18, and 25 to recite that the determining is based on a cost associated with each of a plurality of message types and based upon a message type supported by each of the plurality of databases, which is not shown in the references cited by the Examiner, either separately or in any proper combination.

Even if AKINPELU et al. could be combined with COCHRANE et al. or KUNG, which Applicants dispute, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990). AKINPELU et al. fails, in both instances, to suggest such a desirability.

Applicants submit that the Examiner has improperly combined AKINPELU et al. with COCHRANE et al. and with KUNG. Furthermore, there is no suggestion or

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disclosure in the references relied upon by the Examiner, separately or in any proper combination, that render obvious the features of claims 1, 10, 18, or 25.

With regard to claim 23, Applicants note that the Examiner correctly indicated that AKINPELU et al. fails to teach that the request is received after the telephone call has been disconnected (Official Action, page 18). The Examiner, however, relied upon ZEBRYK for a teaching of this feature. Notwithstanding, ZEBRYK appears to disclose the transmission of batches of transaction records (col. 3, lines 15-39), but fails to disclose receiving a request requesting an identification of the local service provider of a caller, as recited in claim 18 (from which claim 23 depends). Thus, Applicants submit that ZEBRYK is also deficient in view of the recited features of claim 23.

Applicants note that they have not acquiesced in the propriety of the Examiner's rejections, but have amended the claims solely in order to expedite prosecution and to enhance clarity. Applicants have also canceled claims 11, 19, 20, and 27, since the features recited therein have been incorporated into the independent claims from which they depend.

The features of claims 1, 10, 18, and 25 are distinct from AKINPELU et al. Thus, AKINPELU et al. is submitted to be deficient in view of the recitations of the claims. Further, none of the other references cited by the Examiner, either alone or in any proper combination, supply the deficiencies of AKINPELU et al.

Thus, Applicants submit that claims 1, 10, 18, and 25 are now in condition for allowance. With regard to dependent claims 2, 3, 9, 15, 17, 21-24, and 26, Applicants

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assert that they are allowable on their own merit, in addition to being allowable by depending either directly or indirectly from independent claims 1, 10, 18, or 25, which Applicants have shown to be allowable.

Thus, it is respectfully submitted that each of the claims in the present application are clearly patentable over the references cited by the Examiner, and an indication to such effect is respectfully requested, in due course.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims, as well as an indication of the allowability of each of the claims in view of the present remarks.

SUMMARY AND CONCLUSION

Applicants have made sincere effort to place the present application in condition for allowance and believe that they have done so.

Applicants note the status of the present application as being after final rejection and with respect to such status believe that there is a clear basis for the entry of the present amendment consistent with 37 C.F.R. § 1.116. Applicants note that amendments made after final are not entered as a matter of right, however, Applicants submit that the amendments made to the pending claims do not raise any new issues requiring further search or consideration as they incorporate features of dependent claims into the independent claims. It is also submitted that the present amendment does not raise the question of new matter. Moreover, the present amendment clearly places the present application in condition for allowance.

Accordingly, Applicants respectfully request entry of the present amendment in accordance with the provisions of 37 C.F.R. § 1.116, reconsideration and withdrawal of the outstanding rejections, and an indication of the allowability of the pending claims.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'William Pieprz', written over a horizontal dashed line.

William Pieprz
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A large, stylized handwritten signature in black ink, likely belonging to Bruce H. Bernstein, written below the printed name.